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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,260	12/22/2003	Eric C. Steindorf	KCX-771 (19263)	4463
22827	7590	10/05/2005	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			PATEL, NIHIR B	
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/743,260

Applicant(s)

STEINDORF, ERIC C.

Examiner

Nihir Patel

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on July 18<sup>th</sup>, 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10, 12, 13, 15, 16, 20 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

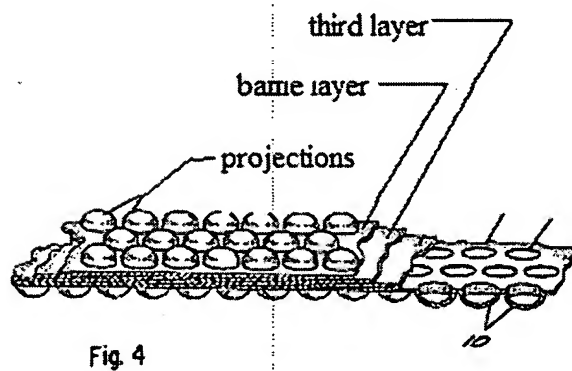
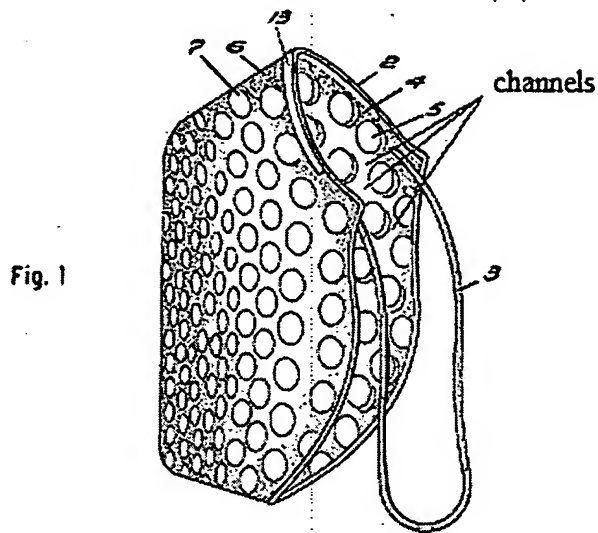
***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Jackson (US 3,490,447). Referring to claim 1, Jackson discloses an apparatus that comprises a body portion configured to be placed over a mouth and at least part of a nose of a user in order to isolate the mouth and the at least part of the nose of the user from the environment such that the air of respiration is drawn through the body portion (refer to column 3 lines 40-55), the body portion having a baffle layer (see figure 1 and 4 below) having an outer and inner surface with a plurality of projections extending from at least one of the outer and inner surfaces that define a plurality of channels on the baffle layer configured for channeling fluid to different locations on the baffle layer, the baffle layer configured to aid in absorbing energy associated with fluid striking the body portion and to prevent fluid strike through (see figures 1 and 4 below).



Referring to claim 2, Jackson discloses an apparatus wherein the channels are interconnected and defined by the projections and the outer surface of the baffle layer, the channels having an orientation such that the fluid is directed laterally away from the point of impact of the fluid through the channels (see figures 1 and 4 above).

Referring to claim 5, Jackson discloses an apparatus wherein the projections are circular pillows (see figures 1 and 4 above).

Referring to claim 10, Jackson discloses an apparatus wherein the plurality of projections extends from the outer surface of the baffle layer (see figure 4 above).

**Referring to claim 12**, Jackson discloses an apparatus that comprises a body portion configured to be placed over the mouth and at least part of a nose (**see column 3 lines 40-55**) of a user in order to isolate the mouth and the at least part of the nose of the user from the environment such that the air of respiration is drawn through the body portion, the body portion having at least one layer, the layer having an outer surface facing away from the user when worn and an inner surface facing towards the user when worn, the layer having a plurality of projections extending therefrom, the projections aiding in absorbing energy associated with fluid striking the body portion, wherein the projections define a plurality of channels on the layer configured for channeling fluid to different locations on the layer (**see figures 1 and 4 above**).

**Referring to claim 13**, Jackson discloses an apparatus wherein the body portion has an inner facing layer contacting the skin of the user when worn, an outer facing layer, and a filtration media layer disposed between the inner facing layer and the outer facing layer, wherein the layer with the plurality of projections is any one of the inner facing layer, outer facing layer and filtration layer (**see figures 1 and 4 above**).

**Referring to claim 20**, Jackson discloses an apparatus wherein the projections are circular pillow (**see figures 1 and 4 above**).

**Referring to claim 25**, Jackson discloses an apparatus wherein the plurality of projections extend from the outer surface of the layer having the projections (**see figures 1 and 4 above**).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **3, 4, 15 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson (US 3,490,447) in view of Springett et al. (US 6,234,171). **Referring to claim 3**, Jackson discloses the applicant's invention as claimed with the exception of providing a first layer that contacts the projections of the baffle layer. Springett discloses an apparatus that does provide a first layer that contacts the projections of the baffle layer. Therefore it would have been obvious to modify Jackson's invention by providing a first layer that contacts the projections of the baffle layer as taught by Springett in order to prevent bacteria from entering the user's body.

**Referring to claims 4 and 15**, Jackson discloses the applicant's invention as claimed with the exception of providing a first layer that is stiffer than the baffle layer. Springett discloses an apparatus that does provide a first layer that is stiffer than the baffle layer. Therefore it would have been obvious to modify Jackson's invention by providing a first layer that is stiffer than the baffle layer as taught by Springett so that the mask does not move when user changes head positions.

**Referring to claim 16**, Jackson discloses the applicant's invention as claimed with the exception of providing a body portion that has an additional layer that is the layer farthest from the user when worn and adjacent to the layer having the projections, the additional layer stiffer than the layer having the projections. Springett discloses an apparatus that does provide a body

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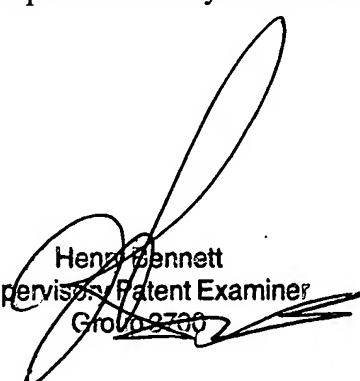
portion that has an additional layer that is the layer farthest from the user when worn and adjacent to the layer having the projections, the additional layer stiffer than the layer having the projections. Therefore it would have been obvious to modify Jackson's invention by providing a body portion that has an additional layer that is the layer farthest from the user when worn and adjacent to the layer having the projections, the additional layer stiffer than the layer having the projections as taught by Springett so that the mask does not move when user changes head positions.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful the examiner supervisor Henry Bennett can be reached at (571) 272 4791.

NP  
October 3<sup>rd</sup>, 2005



Henry Bennett  
Supervisor Patent Examiner  
Group 2700